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Paper No. 3

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MAY 16 2002

OFFICE OF PETITIONS

In re Application of	:	
Gary Wayne Dunlavy	:	DECISION GRANTING
Application No. 10/010,512	:	PETITION
Filed: December 5, 2001	:	
Attorney Docket No. ADAPP202	:	

This is a decision on the paper styled "PETITION TO THE COMMISSIONER TO CORRECT FILING DATE OF AN APPLICATION" filed March 12, 2002, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of December 5, 2001, rather than the presently accorded filing date of November 5, 2001.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service, on December 5, 2001. In support, petitioner provided a copy of the Express Mail label, receipt no. EJ577837598US, showing a Date-In of December 5, 2001. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter submitted with the instant petition which includes a statement of express mailing under 37 CFR 1.10 dated December 5, 2001. Petitioner request that the application be accorded a filing date of December 5, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 5, 2001.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to December 5, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley

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Petitions Examiner
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for Patent Examination Policy